

MDR Tracking Number: M5-04-4141-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on August 5, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with § 133.308(r)(9), the Commission hereby Orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the Order, the Commission will add 20-days to the date the Order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening was found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the functional capacity evaluation.

### ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service rendered on 12/29/03 through 1/22/04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8<sup>th</sup> day of October 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

MQO/mqo

September 27, 2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-4141-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

## CLINICAL HISTORY

\_\_\_ was injured on \_\_\_ while working for \_\_\_. He was carrying a couch when he slipped off the truck landing on his feet while still holding the couch. He noted neck pain, right shoulder pain and pain between the shoulder blades. He presented to the office of Dr. W, DC for treatment on 11/12/03. The initial examination noted reduced ROM in cervical extension, left rotation and left lateral flexion with spasm. He was treated with active rehabilitation and work hardening. A cervical MRI was performed on 11/17/03 indicating a minor protrusion at C5/6, C6/7 bulge with spurring of median raphe yielding central stenosis. On 11/21/03, the patient was referred to \_\_\_ for active therapy through 12/19/03. The initial rehabilitation visits lasted from 8 to 11 minutes according to the records provided. The later visits were from 45 minutes to 1 hour and 45 minutes. Neurodiagnostic testing was performed on 12/10/03 and found to be within normal limits. FCE's were performed on 12/22/03 and 1/23/03.

Records were received from the treating doctor, requestor (250 pages according to affidavit) and respondent (79 pages per page count). Records include but are not limited to the following: Initial TWCC paperwork, MDR request from requestor, various HICFA 1500 forms and EOB's, treatment notes from \_\_\_, FCE 1/23/04 and 12/22/03 (missing pages 8 and 9, group psychological notes from work hardening, notes from \_\_\_, Ph. D., treatment/examination notes from Accident and Injury, initial report from Accident and Injury, Peer review 2/6/04 by Dr. F, DC and notes from \_\_\_, LPT.

A Specialty IRO employee was requested to obtain the missing two pages from the 12/22/03 FCE from the requestor. However, \_\_\_ at the requestor's office indicated that the pages did not exist due to a printing/numbering error on the initial examination. The employee called the reviewer to explain the situation. The reviewer requested a second phone call by the Specialty IRO employee due to the fact that the missing pages should have information regarding lifting information that would be extremely helpful in the review process. The same employee called again and was told that the pages in question did not exist and the only had information regarding validity of testing information. The SIRO employee called the reviewer and the reviewer stated that a review was possible without the information.

#### DISPUTED SERVICES

Disputed services include a work hardening program from 12/29/03 through 1/22/04.

#### DECISION

The reviewer disagrees with the previous adverse determination.

#### BASIS FOR THE DECISION

The requestor's criteria for this program is based upon the Council of Chiropractic Physiological Therapeutics and Rehabilitation Guidelines for a work hardening program. The guideline and the letter of referral for MDR indicate that work hardening is to be used in as a Stage 4 (subacute) treatment. That is after 6 weeks of injury for a period of 2-8 hours of treatment per day. The gentleman improved with his treatment according to the FCE's of 12/22/03 and 1/23/04. This is medically necessary as per TLC §408.021. There is evidence of a psychological condition that indicated a multidisciplinary program over a unidisciplinary program such as work conditioning as per Dr. M. The respondents peer review indicates that ROM was normal as of 12/22/03. Rotation, flexion and lateral flexion was reduced according to the Fourth Edition of the AMA Guides to the Evaluation of Permanent Impairment and the patient measured at a medium PDL. His work requires a heavy PDL. The availability of light/modified duty could not be established by the documentation provided; therefore, a work hardening program was medically necessary to further condition and strengthen the patient according to the reviewer. The Medical Disability Advisor by Dr. R, MD indicates that a cervical sprain/strain superimposed over a disc disruption "can complicate treatment...(and) psychosocial issues may prolong duration". The duration tables indicate a mean of 38 days of disability. This gentleman exceeds the expected

duration. This is likely due to comorbid conditions/complicating factors of disc injury and psychological conditions which are inhibiting treatment.

References:

Council of Chiropractic Physiological Therapeutics and Rehabilitation Guidelines

Campana, Bruce A. "Soft Tissue Spine Injuries and Back Pain." Emergency Medicine, 4th ed. vol. 1. Rosen, Peter, and Roger Barkin, eds. St. Louis: Mosby, 1998. 878-905.

Kisner, Carolyn, and Lynn Allen Colby. "The Spine: Posture." Therapeutic Exercise: Foundations and Techniques, 2nd ed. Philadelphia: F.A. Davis Company, 1990. 429-472.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,